

# WebMemo



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## EFCA: High-Pressure Spin Selling and Creative Organizing for Labor Unions

*James Sherk and Ryan O'Donnell*

After work, you and a couple of co-workers gather at the local pizza joint for a few slices and a beer. Your co-workers are buying! One of them asks you to sign in. Ready for a cold one, and focused on whether to go for pepperoni or maybe that new meat lover's pie, you sign. Congratulations! Under the rules of the misnamed Employee Free Choice Act (EFCA), you've just voted to unionize your workplace.

Under EFCA, the above scenario, as well as other methods of "creative organizing," can be used to pressure or deceive employees into joining a union, since they will no longer have the protection of a secret ballot. While the current union-election process can mitigate the effects of aggressive sales techniques, under EFCA, workers who have been deceived will no longer have an opportunity to gather all the facts and make an informed decision on union organizing.

**Union Organizers Are Salesmen.** Rian Wathen, a former organizing director of UFCW Local 700 in Indianapolis, recently spoke at The Heritage Foundation about his experiences as part of the labor movement.<sup>1</sup> While serving as organizing director, Wathen discovered that the president of Local 700 was mismanaging union funds—funds established by dues that come straight out of employee paychecks. In order to demonstrate how members' dues were being misused, Wathen distributed financial statements to the rank-and-file, a bold stance against corruption that resulted in his termination without notice.

A 15-year union veteran and a harsh critic of union corruption, Wathen understands how the union

movement works from the inside. Wathen explains that union organizers are, in essence, salesmen. They sell a product—union membership—and their jobs depend on making enough sales. As Wathen notes, union organizers "are promoted by bringing in new dues-paying members.... The person who brings in the most cards, by hook or by crook, is the person who looks productive and gets promoted." Consequently, organizers have one goal: to recruit as many new dues-paying union members as possible.

Since only 13 percent of non-union workers even want a union at their workplace, many labor organizers employ "creative organizing" tactics like the pizza sign-in scenario, as well as high-pressure sales techniques to get workers to sign union cards and realize their sales goals.<sup>2</sup>

**High-Pressure SPIN Selling.** Wathen described in detail how he and fellow organizers were trained by the Huthwaite Company in the SPIN selling technique. SPIN stands for Situation, Problem, Implication, and Need payoff—the four emotional states through which organizers lead employees in order to secure a signed union-authorization card. SPIN is a method of emotionally manipulating workers to make the sale. After each meeting, the organizer uses

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a sheet to track where the employee is in the four-step emotional cycle, so future organizers can attack at the emotional vulnerability where the latter left off. The goal of the SPIN organizing process, according to Wathen, is not the union or the card itself: It's about convincing the employee that whatever workplace problem he might have, signing the card will solve that problem.

Consider a scenario where mandatory overtime occasionally requires an employee to miss his son's baseball games. The situation is that the employee's son plays baseball; the problem is mandatory overtime; the implication of that problem is that the employee is forced to miss his child's games.

By the time the organizer has gotten to the final SPIN stage, the employee is focused entirely on being able to attend his son's baseball games. Wathen explains that the organizer gets the employee to the point, in his mind, that the need payoff is that

it has nothing to do with the mandatory overtime; it has nothing to do with the problem. . . . When he reads that ballot, he doesn't see: "Do you wish to vote for the union?" To him, that ballot says, "Do you want to go to your son's baseball games? Yes or no?" Who would vote against that?<sup>3</sup>

Under EFCA, employees would not even have an opportunity to make that decision in the voting booth. A card signed under emotional pressure would be all it takes.

**It's in the Cards.** Manipulative sales tactics are bad enough. To make matters worse, there is no law—or provision in EFCA—regulating what union-authorization cards should look like. The card can be any size, any color, any shape, and contain any language so long as it has one line containing the suggested language from the National Labor Relations Board (NLRB): "I hereby authorize [name of the union] to represent me for the purposes of collective bargaining." This language can be buried

between promotional text and color pictures of employees playing softball and taking vacations—it just has to be somewhere in the potentially multi-page authorization "card." As noted, these cards can even be presented as a sign-in sheet for a pizza party, offered in exchange for a ride to or from work—even when the employee is under the influence of alcohol.<sup>4</sup>

**The Need for Elections.** It is not until the NLRB schedules an election that many employers have a chance to respond to the issues raised by the union and rebut any falsehoods. Frequently, a union's petition for certification is an employer's first notice that an organizing drive is even underway. The only way to counter emotional manipulation and pressure tactics is to give a company's management equal opportunity to present its case against a union and then let workers make an informed choice in the privacy of the voting booth—the only protection that workers have from being pressured, coerced, or manipulated into a "yes" vote for a union they might not even want.

**Giving Employees a Choice.** Under EFCA, union organizers will be free to use aggressive and emotionally manipulative sales techniques like SPIN, as well as "creative organizing" methods and deceptive authorization cards to pressure or mislead employees into joining a union. Secret-ballot elections—with the attendant union-organizing drives that give management the chance to present its side—remain the only way to ensure that workers subject to devious organizing tactics are given an opportunity to hear both sides of the debate. EFCA would deny employees such an opportunity, leaving them at the mercy of organizing tactics that are designed to recruit as many dues-paying union members as possible—not to address, let alone resolve, the real questions and concerns employees might have.

—James Sherk is the Bradley Fellow in Labor Policy, and Ryan O'Donnell, a former private sector labor attorney, is Web Editor, at The Heritage Foundation.

1. Rian Wathen, "Consequences of the Employee Free Choice Act," speech at The Heritage Foundation, Washington, D.C., February 23, 2009, at <http://www.heritage.org/press/events/ev022309b.cfm>.
2. Center for Union Facts, "Americans Overwhelmingly Reject Unionization," February 4, 2009, at <http://server1.laborpains.org/wp-content/uploads/2009/02/pensionunionfactspolltopline.pdf> (March 10, 2009).
3. Wathen, "Consequences of the Employee Free Choice Act."
4. *Ibid.*